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June 24, 1996

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street
Washington, D.C. 20554

Federal Communications Commission
Office of Secretary

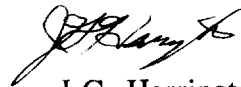
Re: CC Docket No. 95-185
EX PARTE NOTICE

Dear Mr. Caton:

On Thursday, June 19, 1996, Cox and the undersigned met with Michele Farquhar, Chief, Wireless Telecommunications Bureau of the Federal Communications Commission. At that meeting Cox discussed reasons why the Commission should retain its jurisdiction over CMRS-LEC interconnection. The list of these reasons is hereby submitted as an ex parte.

If you have any questions, please do not hesitate to contact the undersigned.

Respectfully submitted,



J.G. Harrington

JGH/css
Enclosure
cc: Michele Farquhar

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TOP TEN REASONS WHY THE COMMISSION SHOULD RETAIN ITS JURISDICTION OVER CMRS-LEC INTERCONNECTION

As explained in myriad comments filed by cellular and PCS providers in the pending CMRS-LEC interconnection proceeding, the Commission has exclusive jurisdiction over all aspects of wireless-wireline interconnection pursuant to Sections 2(b), 201 and 332 of the Communications Act. The top ten reasons why the Commission should retain its jurisdiction are:

1. Even if the Commission were to adopt a detailed pricing standard under Section 252 for reciprocal compensation arrangements between competing LECs, that standard would be subject to considerable interpretation by the states and, ultimately, federal district courts -- not the FCC. Involving the states in what is inherently a federal matter (as defined by Congress) would unnecessarily complicate the process and deprive the FCC completely of its important role as arbiter of CMRS-LEC interconnection disputes.
2. Forcing CMRS providers to follow the negotiation/arbitration procedures of Sections 251 and 252 would add unnecessary delay to the resolution of CMRS-LEC interconnection disputes and could considerably disrupt the launch of new PCS services. If the Commission were to adopt a new interim CMRS-LEC interconnection policy in June, as it has proposed, that policy would become effective 30 days after publication in the Federal Register. By contrast, requiring CMRS providers to use the Sections 251/252 negotiation/arbitration procedures would add nearly 12 months (not including highly expensive and time consuming litigation in federal district court) to the process -- delaying the rollout of PCS services on a solid economic footing by more than one year.
3. To the extent the Commission's rules concerning the Section 252 pricing standards give the states any interpretive flexibility at all, CMRS providers serving multi-state MTAs could easily face a lack of uniformity in interconnection pricing in the same service area. Rather than having a single national pricing standard apply, a CMRS provider would have to figure out how to apply numerous state standards, complicating its negotiations with incumbent LECs. Moreover, since the FCC still would have jurisdiction over interstate interconnection issues, a CMRS provider would have to determine which of its traffic is "interstate", which is "intrastate", and, of the intrastate traffic, which should be assigned to each involved state. As the record before the Commission shows, LEC and CMRS networks are not technically capable of making these determinations. Accordingly, a CMRS provider would either have to guess which traffic goes where -- knowing full well that its guess will be wrong -- or it (and the LECs with which it is interconnecting) would have to incur the considerable expense of installing the software and hardware necessary to accurately track calls. These inefficiencies would be caused not by

any business factors but by the need to comply with an artificial regulatory scheme.

4. Requiring CMRS providers serving multi-state MTAs and MSAs to pay different interconnection rates (which may or may not be narrowly defined by FCC rule) would significantly decrease their marketing flexibility and make it impractical for them to offer uniform pricing throughout their markets (or nationwide). Moreover, reciprocal compensation payments are a significant cost factor and directly affect the retail price of CMRS service to consumers. Accordingly, retail price inflation could also result if a CMRS provider decided that market forces demanded uniform pricing in any event and then had to set its retail price high enough to cover the highest applicable interconnection rate.
5. Adopting a federal CMRS-LEC interconnection policy would have a positive effect on CMRS roaming.
6. Giving the states a role in CMRS-LEC interconnection only creates incentives for them to do indirectly what they are forbidden from doing directly -- regulating the rates and entry of CMRS. Indeed, California and Connecticut already have stated that CMRS providers will have to get certificated as CLECs if they wish to take advantage of new, more favorable interconnection rules, in direct contravention of Section 332(c).
7. Despite arguing that CMRS providers must follow the Section 251/252 process to secure interconnection, at least one LEC, U.S. West, excludes CMRS providers from the terms of its model interconnection agreement. This proposal reveals that incumbent LECs will make every effort to complicate their interconnection with CMRS networks under Sections 251/252 if given the opportunity.
8. A determination that CMRS providers must go through the Section 251/252 process would threaten the Commission's jurisdiction over interstate interconnection generally. The Section 201 savings clause contained in Section 251(i) must be construed consistently as preserving the FCC's jurisdiction over both interstate interconnection and CMRS interconnection; it cannot be interpreted as protecting one but not the other.
9. Applying the pricing standard in Section 252(d)(2) to CMRS is complicated by the fact that the standard governs only reciprocal compensation arrangements entered into by "local exchange carriers" -- a term which expressly excludes CMRS providers. Although the FCC has the discretion to include CMRS operators in the definition of a LEC, it would be hard pressed to do so only for purposes of interconnection.
10. Digital wireless service is among the best alternatives for facilities based competition to the local loop, and the FCC should exercise its authority to adopt a uniform CMRS-LEC interconnection policy promptly in order to jump-start that competition.